

Filed for intro on 01/30/95  
Senate Bill \_\_\_\_\_  
By \_\_\_\_\_

House Bill No.HJR0029  
By Bird

A RESOLUTION memorializing the United States Congress to propose an amendment to the United States Constitution providing for the popular election of all federal judges, including U.S. Supreme Court Justices, and to submit such constitutional amendment to the several states for proper ratification

WHEREAS, the United States Constitution provides for the appointment of federal judges to "hold their offices during good behavior"; and

WHEREAS, this provision, although undoubtedly well intentioned, has resulted in a situation in which federal judges are certainly less than responsive to the current prevailing opinions of the American people; and

WHEREAS, in a nation which prides itself on operating under the rule of law, nevertheless, those who interpret the law must remain aware of the will of the people; and

WHEREAS, the United States of America is a law abiding nation, but this tradition is based upon a respect for our judicial system, and our respect is not enhanced by arbitrary and capricious decisions which do not truly reflect the will of the people; and

WHEREAS, it is indeed ironic that in our great democracy all adult citizens can express their opinions on government through their right of suffrage in every branch of Tennessee state government and the United States government except the federal judicial system; and

WHEREAS, Bishop Hoadly's Sermon preached before the King on March 31, 1717, foretold the future of our country today when he said "Whoever hath an absolute authority to interpret any written or spoken laws, it is he who is truly the lawgiver, to all intents and purposes, and not the person who first spoke or wrote them"; and

WHEREAS, federal judges have in many instances stopped interpreting the law and started legislating laws through the use of court orders to appropriate funds and supervise executive branch functions and thereby have violated the doctrine of separation of powers which they purport to be enforcing by using such orders to expend money to take over executive offices without regard to existing laws; and

WHEREAS, just as in 1913 when the U.S. Constitution was amended to provide for the popular election of senators, it is now a most appropriate time to once again amend the U.S. Constitution to provide either for the popular election of all federal judges, including U.S. Supreme Court Justices; and

WHEREAS, our reverence for the proposition of certain inalienable rights for all Americans is most assuredly a by-product of our inherent faith in the equity and effectiveness of our judicial system, and this sacred trust must be maintained at all costs in order to insure the health and prosperity of our great nation; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-NINTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, That this General Assembly hereby memorializes the United States Congress to propose an amendment to the United States Constitution, requiring the popular election of all federal judges, including U.S. Supreme Court Justices, and to submit such constitution amendment to the several states of the union for proper ratification.

BE IT FURTHER RESOLVED, That the actual text of such proposed constitutional amendment should contain the following provisions:

(a) All federal judges, excluding U.S. Supreme Court Justices, shall be elected by the popular vote of the citizens residing in the judicial district in which they preside or in which they seek to preside.

(b) Such federal judges shall serve six (6) year terms. No federal judge shall be eligible to serve more than two (2) six (6) year terms or a total of twelve (12) years in that judicial seat.

(c) After completing such two (2) term eligibility, such federal judges shall be eligible to seek election to a different judicial seat. After vacating their respective judicial seat for a full six (6) year term, such federal judges shall be eligible to once again seek election to that judicial seat.

(d) U.S. Supreme Court Justices shall be elected by the popular vote of all U.S. citizens eligible to exercise the right of suffrage.

(e) All federal judicial candidates, including those seeking the office of U.S. Supreme Court Justices, shall seek election without party affiliation. Such federal judicial candidates shall be elected at the same general election at which members of the U.S. House of Representatives are elected.

(f) When a vacancy occurs in any federal judicial seat, including the office of the U.S. Supreme Court Justice, the President of the United States shall temporarily fill such vacancy. The President's selection to fill such vacancy shall be subject to confirmation by a simple majority of the United States Senate. At the next succeeding general election at which members of the U.S. House of Representatives are elected, the federal judgeship in which such vacancy occurred shall be elected by the popular vote of all citizens qualified to vote in such federal judicial district, or in the instance of a U.S. Supreme Court Justice, by all U.S. citizens qualified to vote.

BE IT FURTHER RESOLVED, That the Chief Clerk of the House is directed to transmit an enrolled copy of this resolution to the Speaker and the Clerk of the U.S. House of Representatives; the President and the Secretary of the U.S. Senate; and to each member of Tennessee's Congressional delegation.